

### **REMARKS**

The Application has been carefully reviewed in light of the Office Action mailed July 25, 2007 (“Office Action”). At the time of the Office Action, Claims 1 and 4-32 were pending in the Application. In the Office Action, the Examiner rejects Claims 1 and 4-32. To advance prosecution of this case, Applicants amend Claims 1, 5, 10, 21, 26, and 32. Applicants do not admit that any amendments are necessary due to any prior art or any of the Examiner’s rejections. Applicants respectfully request reconsideration and allowance of Claims 1 and 4-32.

### **Claim Rejections - 35 U.S.C. § 102**

#### ***Claims 1, 5, and 10***

The Examiner rejects Claims 1 and 4-32 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0144057 A1 to Brenner, et al. (“*Brenner*”). Applicants respectfully request reconsideration and allowance of Claims 1 and 4-32.

*Brenner* fails to support the rejection for several reasons. First, *Brenner* fails to teach, suggest, or disclose “a first wagering facility that comprises a first totalisator”, “a second wagering facility that comprises a second totalisator”, and determining “a settlement between the first and second wagering facilities” as recited in amended Claim 1. Second, *Brenner* fails to teach, suggest, or disclose that “the one or more contract parameters between the first and second wagering facilities define a first fee charged by the second wagering facility to the first wagering facility” and “the one or more second contract parameters defining a second fee charged by the second wagering facility to the third wagering facility” as recited in amended Claim 5. Third, *Brenner* fails to teach, suggest, or disclose that “the first fee is a first simulcast fee and the second fee is a second simulcast fee that is different from the first simulcast fee” as recited in amended Claim 10.

First, *Brenner* fails to teach, suggest, or disclose “a first wagering facility that comprises a first totalisator”, “a second wagering facility that comprises a second totalisator”, and determining “a settlement between the first and second wagering facilities” as recited in amended Claim 1. *Brenner* describes a network that allows users to place wagers on events hosted by various racetracks. (¶ 46). To place a wager on an event, an individual bettor uses

a “user terminal” to establish a connection with a totalisator at a racetrack. (¶ 57-58). Using the user terminal, the bettor establishes an account with the racetrack and then submits a wager. (¶ 57-58). Based on the outcome of the event, the totalisator may credit the individual bettor’s account if the wager is a winning wager. (¶¶ 57-58). Thus, *Brenner* discloses crediting or debiting an account between an individual bettor and a particular racetrack’s totalisator.

In the Office Action, the Examiner equates the user terminals in *Brenner* with the “first wagering facility” recited in Claim 1. (Office Action; page 7). In particular, the Office Action states: “the user terminals is [sic] the first wagering facility....[A] wagering facility could be multiple homes with wagering terminal(s) use [sic] for placing bets.” (Office Action; page 7). Thus, the Examiner equates the first wagering facility with the user terminals (e.g., home computers) of individual bettors. A plurality of such user terminals -- referred to as “multiple homes with wagering terminal(s)” in the Office Action -- do not teach, suggest, or disclose a “totalisator” or “a first wagering facility that comprises a first totalisator” as recited in amended Claim 1. Furthermore, *Brenner* describes user terminals as being distinct and different from totalisators. For example, Figure 1 of *Brenner* illustrates “user terminals 122” as being distinct and separate from “totalisators 102.”

As explained above, *Brenner* describes a system that manages an account between an individual bettor and a totalisator -- **not** an account between one totalisator and another totalisator. In particular, *Brenner* describes a “wagering data management facility” that manages an account of an individual bettor. (¶ 121). When a bettor places a wager at a user terminal, “wager transaction data corresponding to the selected wager is transmitted from user terminal...to wagering data management facility.” (¶ 148). The wagering data management facility may then maintain the bettor’s account by communicating with the totalisator. (¶ 121). According to *Brenner*, a bettor may also use the wagering data management facility to make “merchandise orders against funds located in the wagering account located at wagering data management facility.” (¶ 126). Based on such transactions, the system in *Brenner* “compiles a bill for the user” and “debits the user’s account (at bank 412 or wagering data management facility 380).” (¶ 164). Thus, the wagering data management facility in *Brenner* manages transactions between an individual bettor and a totalisator. However, the wagering data management facility in *Brenner* does not settle an account between one totalisator and another totalisator. Therefore, *Brenner* does not teach,

suggest, or disclose “a clearinghouse...operable to...determine a settlement between the first and second wagering facilities” where the “first wagering facility...comprises a first totalisator” and the “second wagering facility...comprises a second totalisator” as recited in amended Claim 1. Because *Brenner* fails to teach, suggest, or disclose this aspect of amended Claim 1, *Brenner* fails to support the rejection. For at least this reason, Applicants respectfully request reconsideration and allowance of amended Claim 1.

Second, *Brenner* fails to teach, suggest, or disclose that “the one or more contract parameters between the first and second wagering facilities define a first fee charged by the second wagering facility to the first wagering facility” and “the one or more second contract parameters defining a second fee charged by the second wagering facility to the third wagering facility” as recited in amended Claim 5. With respect to contract parameters, the Office Action cites a portion of *Brenner* that describes various types of bets. (Office Action; page 4). In particular, the cited portion of *Brenner* states:

The type of racing data provided to racing data interface 372 by wagering and data management facility 380 typically includes the current race at each track, which races and tracks are open for wagering, the post times of each race, and the number of races associated with each track. Racing data also include the win, place and show "pool" totals, exacta, trifecta, quinella and other wager payoff predictions, and the actual odds for the current race at each track, as well as the "morning line" odds for any future race. In addition, racing data typically include the number of minutes remaining until post time for the current race at each track.

Racing data provided by wagering data management facility 380 also include race results, such as actual payoff values versus a standard wager amount for win, place, and show wagers. Also provided are actual payoff values for the winning complex wager types, including exacta, trifecta, quinella, pick-n (where "n" is the number of races involved in the pick-n wager), and daily double. Payoff values may also be accompanied by a synopsis of the associated finish list.

(¶¶ 116-17). Thus, *Brenner* discloses that the wagering data management facility may comprise racing data such as payoff predictions and pool totals for different types of wagers. However, merely storing payoff predictions and pool totals for various wager types does not teach, suggest, or disclose “a first fee charged by the second wagering facility to the first wagering facility” or “a second fee charged by the second wagering facility to the third wagering facility” as recited in amended Claim 5. Because *Brenner* fails to teach, suggest, or disclose this aspect of amended Claim 5, *Brenner* fails to support the rejection. For at least

this reason, Applicants respectfully request reconsideration and allowance of amended Claim 5.

Third, *Brenner* fails to teach, suggest, or disclose that “the first fee is a first simulcast fee and the second fee is a second simulcast fee that is different from the first simulcast fee” as recited in amended Claim 10. Claim 10 depends from Claim 5, which recites, in part, that the first fee is “charged by the second wagering facility to the first wagering facility” and that the second fee is “charged by the second wagering facility to the third wagering facility.” With respect to a simulcast fee, the Office Action cites a portion of *Brenner* that describes a race video ordered by a user. (Office Action; page 4). In particular, *Brenner* explains that, for a particular user, the wagering data management facility may maintain a running log of transaction fees such as fees charged to the user for ordering a race video. (¶ 164). *Brenner* states that the transaction log may be used to compile a bill for the user and to debit the user’s account. (¶ 164). Therefore, *Brenner* discloses a fee that is charged to a user, not a fee that is charged to a wagering facility. Thus, *Brenner* fails to teach, suggest, or disclose a “first simulcast fee” that is “charged by the second wagering facility to the first wagering facility” as recited in amended Claim 10 (depending from amended Claim 5). Furthermore, there is nothing in *Brenner* that teaches, suggests, or discloses “a second simulcast fee that is different from the first simulcast fee” where the second fee is “charged by the second wagering facility to the third wagering facility” as recited in amended Claim 10 (depending from amended Claim 5). Because *Brenner* fails to teach, suggest, or disclose the foregoing aspects of amended Claim 10, *Brenner* fails to support the rejection. Accordingly, Applicants respectfully request reconsideration and allowance of amended Claim 10.

#### ***Claims 4, 6-9, 11-32***

In rejecting Claims 21 and 26, the Examiner employs the same rationale used to reject Claim 1. Accordingly, for at least the reasons stated above with respect to amended Claim 1, Applicants respectfully request reconsideration and allowance of amended Claims 21 and 26.

Claims 4, 6-9, 11-20, 22-25, and 27-32 depend from independent claims shown above to be allowable. In addition, these claims recite further elements not taught, suggested, or disclosed by *Brenner*. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 4, 6-9, 11-20, 22-25, and 27-32.

**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Justin N. Stewart, Attorney for Applicants, at the Examiner's convenience at (214) 953-6755.

The Commissioner is hereby authorized to charge the \$120.00 one month extension of time fee and to charge any deficiency or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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**CORRESPONDENCE ADDRESS:**

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